



STATE OF CONNECTICUT

OFFICE OF THE
PROBATE COURT ADMINISTRATOR

PAUL J. KNIERIM
Probate Court Administrator

THOMAS E. GAFFEY
Chief Counsel

HELEN B. BENNET
Attorney

DEBRA COHEN
Attorney

186 NEWINGTON ROAD
WEST HARTFORD, CT 06110

TEL (860) 231-2442
FAX (860) 231-1055

To: Senate Co-Chair Danté Bartolomeo
House Co-Chair Diana Urban
Senate Ranking Member Art Linares
House Ranking Member Whit Betts
Honorable Members of the Committee on Children

From: Paul J. Knierim
Probate Court Administrator

Re: RB 47 An Act Concerning Second Parent Adoption

Date: February 18, 2014

The Office of the Probate Court Administrator supports RB 47, An Act Concerning Second Parent Adoption.

The bill would apply the same procedural rules to co-parent adoptions as currently apply to stepparent adoptions. Under the provisions governing stepparent adoptions, a Probate Court is directed to waive the requirement of a home study when a parent petitions for adoption of his or her child by the parent's spouse. This is an exception to the default rule that the court must obtain and review a home study before approving an adoption. The exception applies only when the child's other parent is deceased or a court has previously terminated his or her parental rights. It reflects the philosophy that less scrutiny is required when a parent of the adoptive child is making the request that the adoption be approved.

The bill would address a problem that same sex couples have encountered. Because Connecticut law recognizes same sex marriage, a child born to a same sex married couple is legally the child of both, and our state issues birth certificates that identify both members of the couple as parents. Parents may be concerned, however, that other states may not recognize the parent-child

relationship. To avoid any potential issues, parents may file an adoption petition in the Probate Court by which the birth parent asks for formal adoption of the child by her spouse. If the petition is treated as a co-parent adoption, the default rule requiring a home study would apply. The result is that a same sex couple is treated differently than an opposite sex couple.

Recognizing the unfairness of this framework, this office recommended, and the Supreme Court approved, a procedural rule to relieve same sex married couples of the burden of obtaining a home study. Specifically, Rule 40.12 of the *Probate Court Rules of Procedure* (copy attached) instructs courts to waive the home study requirement for an adoption by one of the spouses in a same sex married couple. The bill would broaden the exemption to unmarried couples who share parental responsibility.

Finally, we respectfully request that all references in the bill to "Court of Probate" to be changed to "Probate Court." This is simply a technical change that we seek whenever a statute affecting the Probate Courts is amended.

Attachment (1)

Probate Court Rules of Procedure
Effective July 1, 2013

Sec. 40.12 Adoption by same sex married couple

(a) Even if both spouses of a same sex married couple are considered parents of a minor under the law of this state, a spouse may petition under C.G.S. section 45a-724 (a) (2) for a stepparent adoption of the minor by the other spouse.

(b) In a proceeding under subsection (a), the court may waive notice to the commissioner of children and families and shall waive, unless cause is shown, all requirements for an investigation and report by the Department of Children and Families or by a child-placing agency.

(C.G.S. sections 45a-707 and 45a-733.)

